

SPECIAL USES PERMIT GUIDE
USDA FOREST SERVICE
MEDICINE-BOW ROUTT NATIONAL FOREST
HAHNS PEAK/BEARS EARS RANGER DISTRICT

This guide is intended to familiarize prospective proponents/applicants with the application process for a special use permit for recreation events, commercial filming/still photography, and outfitting/guiding. After familiarizing yourself with this guide, it is recommended that you read the information sheet that is applicable to the permit you are interested in applying for. Following is (1) an overview of special use authorizations, and (2) an overview of the recreation event, commercial filming/still photography, and outfitting/guiding permit process.

SPECIAL USE AUTHORIZATIONS OVERVIEW

With very few exceptions, a special use authorization is required (1) to occupy, use, or build on NFS land for personal or business purposes, whether the duration is temporary or long term; (2) if there is a fee being charged or if income is derived from the use; or (3) if an activity on National Forest System (NFS) land involves individuals or organization with 75 or more participants or spectators. A prospective use must be approved via an authorization from the Forest Service. Authorizations can be in the form of a lease, easement, right-of-way, or permit. A permit authorization is required for recreation events, commercial filming/still photography, and outfitting/guiding activities on NFS lands. Outfitting/guiding permits can be a (1) temporary permit (issued for up to one year of use), or a (2) priority use permit (issued for up to ten years of use). However, this Hahns Peak/Bears Ears Ranger District is currently only issuing temporary outfitting/guiding permits, due to administrative restraints.

To obtain an authorization, a proponent needs to (1) contact the Forest Service office where the proposed activity may occur in order to gather information on rules, regulations, costs, and timelines; and (2) complete and submit an application and attach any required supplemental documentation, which could include such documents as business plans, operating plans, performance evaluations, liability insurance, and licenses or registrations.

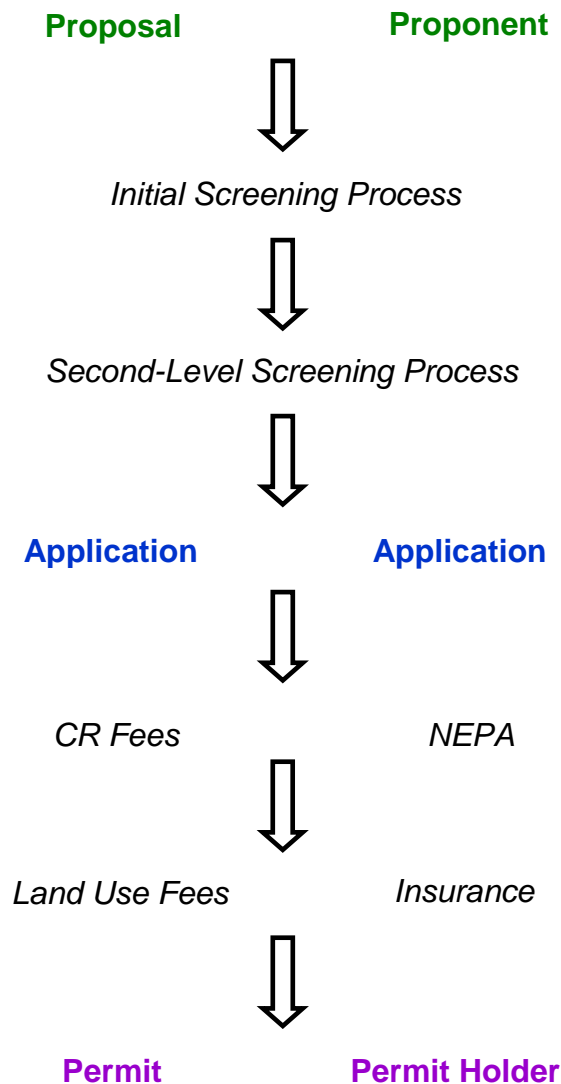
Whether or not an authorization is ultimately issued is dependent on a variety of factors, including the initial and second-level screening criteria. For example, preference in processing proposals/applications and issuing authorizations is given to uses that offer public services and benefits over private uses. Some of other reasons a proposal or application may be denied include:

- 1) The application was not complete.
- 2) Financial or technical capability was not sufficiently documented.
- 3) Physical, biological or social environmental impacts of the proposed activity.
- 4) Forest Service staff has other previously scheduled or higher priority work.

Unless specifically prohibited, individuals, business entities, corporations, partnerships, associations, municipalities, or agencies of local, State, or Federal governments may hold a special use authorization.

PERMIT PROCESS

Requests for a permit to conduct recreation event, commercial filming/still photography, or outfitting/guiding activities on NFS lands are referred to as special use “proposals”. The person/persons making a proposal are referred to as the “proponent”. The Forest Service conducts an initial and second-level screening process before accepting a proposal as a formal special use “application”. If an application meets all requirements, a special use permit may be issued. This process is depicted below:



PRE-PROPOSAL MEETING

The proponent must meet with the Hahns Peak/Bears Ears Ranger District Special Uses Permit Administrator as early as possible for pre-proposal discussions. This

meeting should occur before submitting a proposal to discuss the proposal's nature, the agency's evaluation guidelines, and any applicable laws and regulations.

At this stage it may not be necessary for the proponent to supply the Forest Service with detailed proposal information. Conceptual proposals may be sufficient for the Forest Service to determine (1) if the Forest Service has the administrative capability of taking on a new proposal; (2) if the proposed use is consistent with existing laws, regulations, and requirements; (3) probable time frames; and (4) potential land use conflicts. Discussing a potential proposal early-on can help to prevent a proponent and Forest Service from expending unnecessary time and money and can help the proponent determine if the proposal is really something they wish to pursue.

INITIAL SCREENING OF A PROPOSAL

If, after the pre-proposal meeting, the proponent still wishes to pursue a permit, the proponent should complete the application specific to their proposal type (recreation event, commercial filming/still photography, or outfitting/guiding) and submit it to the Special Uses Permit Administrator. The application should be thoroughly completed in order to pass the initial, second-level, and application screening processes. An application without sufficient information may be denied at any stage of the screening process, with or without the option of resubmitting the application.

Proposals are initially screened with the nine criteria below to determine if the proposed use:

- 1) Is consistent with the laws, regulations, orders, and policies establishing or governing NFS lands (including policy in Forest Service Manuals [FSM] 2703.1 and 2703.2); other applicable Federal, State, and local laws.
- 2) Is consistent with standards and guidelines in the Routt National Forest Land and Resource Management Plan (Forest Plan).
- 3) Will not pose a serious and substantial risk to public health or safety.
- 4) Will not create an exclusive or perpetual right of use or occupancy.
- 5) Will not unreasonably conflict or interfere with administrative uses of the Forest Service, with other scheduled or authorized existing uses, or use of adjacent NFS lands.
- 6) Does not involve a proponent with an outstanding debt owed to the Forest Service under terms and conditions of a prior or existing authorization.
- 7) Does not involve gambling or sexually oriented commercial services, even if they are permitted by state law.
- 8) Does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded.
- 9) Does not involve disposal of solid waste or disposal of radioactive or other hazardous substances.

If the proposal fails to meet any of these criteria, the proposal will be denied. If the proposal was submitted orally, notification of denial may be made orally. If the proposal was submitted in writing, written notification and explanation of denial will be sent to the proponent.

SECOND-LEVEL SCREENING OF A PROPOSAL

A proposal that meets all of the initial screening criteria proceeds to second-level screening. The proponent will be notified that their proposal is subject to second-level screening. At this stage, the Forest Service, as appropriate, may provide the proponent with additional guidance and information, including:

- 1) Potential land use conflicts.
- 2) Processing timeframes.
- 3) Environmental and management concerns.
- 4) General terms and conditions of the permit
- 5) Insurance, fees, and bonding requirements.
- 6) Additional coordination with other Federal, State, or local agencies.
- 7) Potential resource surveys, environmental effects analysis, and the associated costs that the proponent will be responsible for.
- 8) The potential for a competitive interest determination.

Proposals at the second-level screening stage are screened with the six criteria below to determine if it qualifies for further consideration as an application:

- 1) The proposed use is consistent with the mission of the Forest Service to manage NFS lands and resources in a manner that will best meet the present and future needs of the American people.
- 2) The proposed use does cause damage to natural, historic, social, or scientific resources.
- 3) The proposed use cannot reasonably be accommodated on non-NFS lands.
- 4) The proposed use is not being submitted solely because it affords the proponent a lower cost or less restrictive location when compared with non-NFS lands.
- 5) The proposed use provides a service that will be equally available to all members of the public.
- 6) The proposed use does not include any gambling devices or activities.
- 7) The proponent demonstrates technical and financial capability to undertake the use and fully comply with the terms and conditions of the permit.
- 8) The proposed use is economically feasible.

The Forest Service shall deny any proposal that fails to meet the second-level screening criteria and will return the proposal to the proponent with a written explanation of the denial. The Forest Service may reconsider proposals denied after second-level screening when the deficiencies identified in the screening process have been corrected

to the satisfaction of the Forest Service. Denial of unsolicited proposals is not subject to administrative appeal under 36 CFR part 214.

FORMAL APPLICATION: COST RECOVERY FEES AND NEPA

When a proposal meets the initial and second-level screening criteria, the Forest Service will notify the proponent that it is accepted as a formal application. At this stage, the applicant becomes subject to non-refundable cost recovery (CR) fees, regardless of whether or not a permit is ultimately issued. Federal regulations authorize the Forest Service to assess and collect CR fees to recover the agency's full costs for processing applications and monitoring permit use. CR fees can become very expensive for an applicant depending upon the complexity of the proposed action and are separate from land use fees.

Upon formal acceptance as an application, the proposed use is considered a proposed action that must be analyzed for its site-specific environmental and social effects in accordance with National Environmental Policy Act (NEPA) requirements (FSM 1950, Forest Service Handbook [FSH] 1909.15). NEPA analysis can be a lengthy and costly process, depending on the type of activity proposed. For example, recreation events and commercial filming/still photography NEPA requirements can often be met with a straight-forward and relatively simple "categorical exclusion". On the other hand, outfitting/guiding activities may require the more lengthy and rigorous "environmental analysis". When the Forest Service notifies the applicant that the proposed use is accepted as a formal application, the anticipated level of NEPA analysis that will be need to be conducted will be discussed.

After the appropriate NEPA analysis is conducted, a decision is made concerning whether or not to issue a permit.

FINAL STEPS: LAND USE FEES AND INSURANCE

Before a permit is finally issued, the permit holder is typically required to pay a land use fee. The land use fee is an annual rental fee based on the fair market value for the uses authorized or calculated as a percentage of the gross revenues of a business operation and is payable in advance.

In addition, proof of insurance, in the form of the Certificate of Liability Insurance, must be provided prior to permit issuance. In order to protect the public and the United States from injury, loss, or damages for which a permit holder may be liable, all permit holders must carry liability insurance. The liability insurance must provide coverage for third-party property damage, personal injury, and death that arise in connection with the authorized use and occupancy. Liability insurance may be either in the split limit or combined single limit format. The minimum coverage requirements are \$25,000, \$100,000, and \$300,000 for a split limit insurance policy and \$300,000 for a combined single limit policy; however, many activities require a higher coverage limit, some up to \$2,000,000. Any insurance policy covering use and occupancy of NFS lands must include an endorsement that names the United States Government as an additional insured and provide for thirty days written notification of cancellation.

POST-PERMIT ISSUANCE

Depending on the type of permit issued, there may be additional requirements and performance standards that will need to be met. This could include, but is not limited to, inspections, performance evaluations, resource damage rehabilitation, and actual use reports. Based on the actual use report submitted by the permit holder each year, the Forest Service will generate a bill that will need to be paid in a timely manner. If any requirements are not met, the permit holder may incur fines or receive negative performance evaluations.

A permit may be revoked or suspended at any time for the following reasons:

- 1) For noncompliance with Federal, State, or local laws and regulations.
- 2) For noncompliance with the terms of the permit.
- 3) For failure of the holder to exercise the rights and privileges granted by the permit.
- 4) With the consent of the holder.
- 5) At the discretion of the authorized officer, for specific and compelling reasons in the public interest.

Now that you have reviewed this document, review the information sheet and application that is specific to the type of activity you wish to propose: recreation event, commercial filming/still photography, or outfitting/guiding. These information sheets and applications will assist you in gathering the information you will need for the pre-proposal meeting. When you are ready to arrange a pre-proposal meeting, please contact Erica Dickerman, Special Uses Permit Administrator, at 970-870-2185 or edickerman@fs.fed.us. We look forward to hearing from you!

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